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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,926	08/23/2001	Thomas Welsh	2001-195	1408
27569 7590 06/20/2007 PAUL AND PAUL 2000 MARKET STREET SUITE 2900 PHILADELPHIA, PA 19103			EXAMINER LUGO, CARLOS	
			ART UNIT 3676	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

**JUN 20 2007**

**GROUP 3600**

Application Number: 09/935,926  
Filing Date: August 23, 2001  
Appellant(s): WELSH ET AL.

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Alex Sluzas  
For Appellant

### **EXAMINER'S ANSWER**

This is in response to the appeal brief filed April 9, 2007 appealing from the Office action mailed August 7, 2006.

#### **(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

#### **(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

#### **(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

#### **(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

#### **(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct (although, the applicant uses the wrong heading, "Summary of the Invention").

#### **(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

#### **(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claims 9-11 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 818,303 to Seaman.

Regarding claim 9, Seaman discloses a latch comprising a housing (1), a lever handle (15) mounted on the housing and being rotatable by an operator between a first position and a second position, and a pawl (6) mounted for substantially linear motion, and being actuated by rotation of the lever handle and traveling substantially linearly between an open position to a closed position as the lever handle is rotated between the first position to second position.

The pawl is mounted to travel between the open position along a first path and an intermediate position mounted to travel in a second path in an upward direction substantially perpendicular to the first path between the intermediate position and the closed position (Figures 2 and 3 and attachment #1).

As to claims 10 and 11, Seaman illustrates that the first and the second path are linear.

**(10) Response to Argument**

The applicant argues that the examiner has misstated the motion of the pawl described by Seaman because the pawl described by Seaman will never travel in two linear paths as drawn by the examiner in one of his attachments (Page 6 Line 1).

First, in order to clarify any confusion, the lines drawn by the examiner shows the path or direction of the movement(see attachment #1).

Second, the claim language states; "a pawl mounted for substantially linear motion, the pawl being actuated by rotation of the lever handle and traveling substantially linearly between an open position to a closed position as the lever handle is rotated between the first position to second position; wherein the pawl is mounted to travel between the open position along a first path and an intermediate position; and wherein the pawl is mounted to travel in a second path in an upward direction substantially perpendicular to the first path between the intermediate position and the closed position".

As seen, the claim language only requires substantially linear paths. The term is a term of degree. It only requires that the path be close to, approximately, slightly linear. Furthermore, the applicant has failed to clearly define this term. Therefore, Seaman discloses that the pawl (7) is mounted for substantially or slightly linear motion.

The applicant also argues that the pawl described by Seaman does not travel in two perpendicular paths (Page 7 Line 3).

As stated above, the claim language requires that the paths are "substantially" perpendicular. At the instant, as seen in attachment #1, Seaman illustrates that the path are substantially or approximately perpendicular.

The applicant also argues that Seaman does not disclose a pawl traveling in an upward direction along the second path from the intermediate to the closed position (Page 7 Line 15). The applicant bases his argument in the fact that the pawl 7 locks as a natural result of gravity pulling the pawl.

The current claim language states; "the pawl is mounted to travel in a second path in an upward direction substantially perpendicular to the first path between the intermediate position and the closed position".

The claim language ONLY requires that the pawl move in an upward direction when the pawl moves between the intermediate position and the closed position, not that the upward direction be from the intermediate position to the closed position. At the instant, Seaman discloses the first path, between the open and the intermediate position, is between the positions shown in Figure 3 to a position where the pin 12 is located at the middle part of the slot 10. The second path, between the intermediate and the closed position, is between the positions shown in Figure 2 to a position where the pin 12 is located at the middle part of the slot 10. When the tumbler 13 moves the pawl 7 from the position shown in Figure 2 towards the position where the pin 12 is located at the middle part of the slot 10, the pawl moves in an upward position. This path is "substantially" perpendicular to the other path, between the

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positions shown in Figure 3 to a position where the pin 12 is located at the middle part of the slot 10.

The applicant also argues that Seaman fails to disclose that the pawl is move by a lever handle (Page 8 Line 3).

The current claim language requires that the lever handle is rotatable by an operator between a first position and a second position and that is mounted in the housing. The claim does not define any critical characteristic to clearly define how is this "lever handle". The claim just requires that is capable of being rotatable operated and that is mounted in the housing. Seaman clearly discloses a "lever handle" 13,14,15 that is capable of being rotatable by an operator and that is mounted in the housing.

The applicant further argues that Seaman disclose a swingable pawl that is not mounted for "substantially" linear motion (Page 8 Line 7). The claim language requires that the motion is substantially, close to, approximately, or slightly linear. Also, the applicant has failed to clearly define the term. At the instant, Seaman discloses that the pawl (7) is mounted for substantially, close to, approximately or slightly linear motion.

Finally, the applicant argues that the applicant's invention is not obvious in view of Seaman (Page 9 Line 3).

This argument is irrelevant since the rejection in view of Seaman was not made in the bases of obviousness (103(a) rejection). The current rejection in view of Seaman was made in the bases of anticipation (102(b) rejection).

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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

***Conclusion***

For the above reasons, it is believed that the rejections should be sustained.

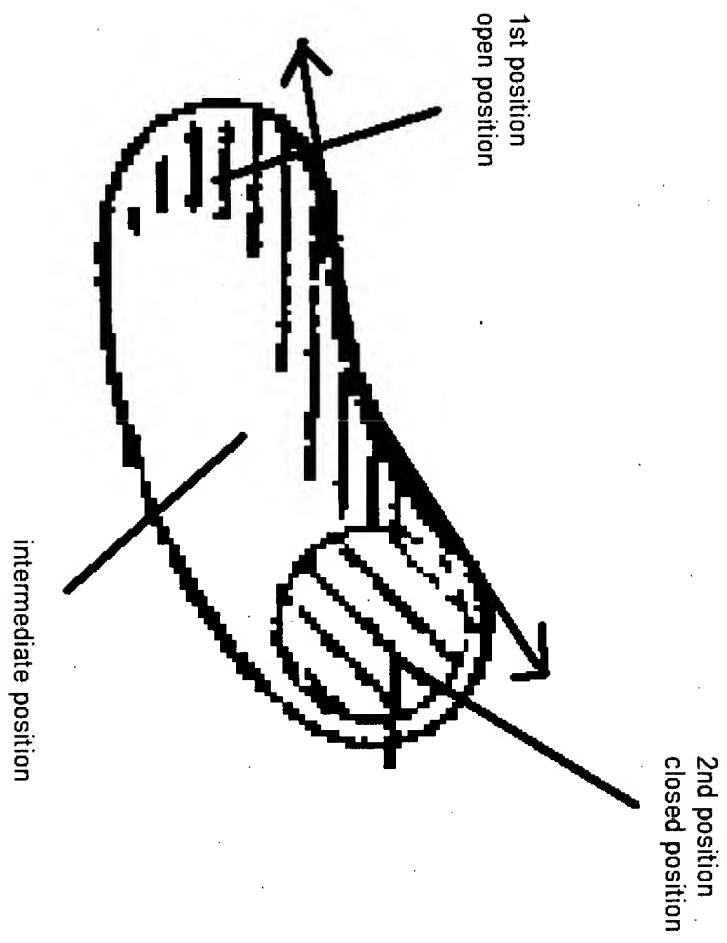
Respectfully submitted,

Carlos Lugo *C.L.*  
AU 3676  
June 5, 2007.

A large, stylized handwritten signature, likely belonging to Carlos Lugo, consisting of several loops and a long horizontal stroke at the end.

Conferees:  
Brian Glessner *BG*  
Meredith Petravick *MP*





attachment #1